IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ABINGDON DIVISION

UNITED STATES OF AMERICA)	
)	Case No. 1:06CR00062
)	Cube 110. 1.00 CR00002
V.)	ORDER
DAMIAN ANTONIO MURPHY,)	By: James P. Jones
)	United States District Judge
Defendant.)	

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** as follows:

- 1. The defendant's Motion to Strike (ECF No. 285) is GRANTED, and his initial motion seeking relief under Fed. R. Civ. P. 60(b) (ECF No. 283) is TERMINATED AS MOOT;
- 2. The defendant's "MOTION FOR RELIEF OF JUDGMENT ACCORDING TO HAZEL-ATLAS PURSUANT TO RULE 60(d)(3) FRAUD ON THE COURT AND RULE 60(b)(3) DISCOVERY VIOLATIONS" (ECF No. 286) is DENIED, and the motion is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;

3. The Clerk is DIRECTED to redocket the motion (ECF No.

286) as a § 2255 motion;

4. The § 2255 motion is hereby DENIED without prejudice as

successive; and

5. A Certificate of Appealability is DENIED, based upon the

court's finding that the defendant has not made the requisite showing

of denial of a substantial right.

ENTER: May 8, 2012

/s/ James P. Jones

United States District Judge

-2-